

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

REVIEW PETITION NO.7 OF 2001

In

SECOND APPEAL NO.449 OF 1988

Pyarelal Ramdeo : Petitioner

V/s.

Seva Sadan Education society : Respondent

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Mr.Anand Grover i/b. Ms Firdaus Moosa for the petitioner.

Mr.A.G.Kothari for the respondent.

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CORAM : S.A. BOBDE, J.
February 2, 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. This Review Petition is preferred by the petitioner (original respondent) who was not represented when the above Second Appeal was heard. The Second Appeal was partly allowed by this Court by judgement dated 22.1.2001 on the basis, vide para 6, that the judgement of the learned Addl. District Judge that the termination order is illegal, was wrong.

3. Mr. Grover, learned counsel for the review petitioner, submits that the learned Addl. District Judge, vide para 18 of the judgement in the First Appeal, came to the conclusion that the review petitioner was suspended. There is such a finding. According to the learned counsel, the order of this Court in the Second Appeal proceeds on an entirely erroneous basis. The learned counsel for the respondent herein submitted that the review petitioner himself came to the Court on the basis that he has been illegally terminated and, therefore, there is no substance in the Review Petition.

4. Whatever be the ultimate view on the basis of the pleadings and evidence, it is clear that the judgement of this Court proceeds on the basis that the review petitioner's services were terminated and not on the basis that he was suspended. There is also an error in my judgement to the effect that it is stated that the learned Addl. District Judge found that the termination of the respondent's services were illegal when, in fact, the finding is that the order of suspension of the petitioner is illegal. This mistake, apparent on the face of the record, in my view, calls for review of the judgement.

5. In the result, the Review Petition is allowed. The judgement dated 22.1.2001 passed in Second Appeal No.449 of 1988 is hereby recalled. All contentions of both the sides are left open.

Sd/-

(S.A. BOBDE, J.)